

**Mitchell C. Shelowitz**

**From:** Mitchell C. Shelowitz [mshelowitz@shelbro.com]  
**Sent:** Friday, November 16, 2007 8:56 AM  
**To:** 'Michael Korik'  
**Cc:** 'amitnick@shelbro.com'  
**Subject:** FW: Following Up

Hi Michael:

I write to follow up on my email of November 5<sup>th</sup> (resent below for your convenience) and our subsequent discussion.

We are waiting for a counterproposal from you in order to try to move forward with settling the matter. When can we expect to receive your reply?

Best regards,

Mitch

Mitchell C. Shelowitz  
Shelowitz Broder LLP  
11 Penn Plaza (7th Avenue at 32nd Street)  
5th Floor  
New York, NY 10001  
Tel: +1-212-655-9384  
Cell: +1-917-669-8427  
Fax: +1-646-328-4569  
Israeli Cell (when in Israel): 054-202-9749  
Email: [mshelowitz@shelbro.com](mailto:mshelowitz@shelbro.com)  
Web: [www.shelbro.com](http://www.shelbro.com)

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**From:** Mitchell C. Shelowitz [mailto:[mshelowitz@shelbro.com](mailto:mshelowitz@shelbro.com)]  
**Sent:** Monday, November 05, 2007 10:18 PM  
**To:** Michael Korik Esq. (mkorik@monaghanlawyers.com)  
**Subject:** Following Up

Hi Michael:

It was good to speak with you today. I wanted to follow up on the call.

We've discussed the mediation dates with our client as well as the discussion regarding the damage basis that we discussed today – moving from the union scale to the statutory damages.

In connection with the hopeful settlement of this action, it would be helpful for us to understand your clients' position.

As we mentioned, our initial \$3,000 offer was intended as a good faith starting point of the settlement discussions. Because of the existence of the Agreement, the implied contract doctrine, the first sale doctrine, the minimal actual damages suffered, the lack of willfulness, and Judge Breiant's decisions in similar matters, we don't believe that the case

for statutory damages is very strong. Nevertheless, there is a value to our client to try to settle the case now, rather than litigating this matter.

If you could provide us with some form of counterproposal to consider – so we can understand your client's position and see how we can bring our clients' position closer to your clients' position -- we believe it would help to get us closer to closure on this matter.

We look forward to hearing from you, Michael.

Best regards,

Mitch

Mitchell C. Shelowitz  
Shelowitz Broder LLP  
11 Penn Plaza (7th Avenue at 32nd Street)  
5th Floor  
New York, NY 10001  
Tel: +1-212-655-9384  
Cell: +1-917-669-8427  
Fax: +1-646-328-4569  
Israeli Cell (when in Israel): 054-202-9749  
Email: [mshelowitz@shelbro.com](mailto:mshelowitz@shelbro.com)  
Web: [www.shelbro.com](http://www.shelbro.com)

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